

REMARKS

[0003] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-12 and 20-37 are presently pending. Claims amended herein are 1, 12, 20 and 26. Claims withdrawn or cancelled herein are 13-19. New claims added herein are none.

Statement of Substance of Interview

[0004] The Examiner graciously talked with me—the undersigned representative for the Applicant— on September 20, 2007. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0005] During the interview, I discussed how the claims differed from the cited art, namely Muhlestein. I also discussed how a number of claims could be clarified in light of their §101 rejections. I also discussed the validity of the §112 rejection. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0006] I understood the Examiner to tentatively agree that independent claims 1, 12, 20 and 26 would contain patentable subject matter if amended as discussed during the interview.

[0007] I understood the Examiner to tentatively agree with my explanation of the differences between the application and the cited art. For example, I explained

the nature of the term “**pipeline**” in the current application and how this was a significant factor in distinguishing claims 1-37 over the cited art, namely Muhlestein. The Examiner agreed to perform an additional analysis of the currently cited art in view of this information. The Examiner indicated that if the current application indeed was different than Muhlstein, another search would be required. The Examiner requested that the discussed amendments be presented in writing.

[0008] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are now allowable over the cited art of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0009] If the Examiner’s reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0010] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Claim Amendments and Additions

[0011] Without conceding the propriety of the objections/rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 12, 20 and 26 herein. Applicant amends claims to remedy informalities and/or clarify claimed features in accordance with our telephone discussion with the examiner. Such amendments are made to expedite prosecution and quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to cited prior art.

Expectation that the Next Action will not be Final

[0012] Applicant submits that all pending claims are in condition for allowance. If the examiner feels otherwise and believes that another action on the merits is necessary, then Applicant expects such an action would be Non-Final.

[0013] According to 37 CFR § 1.113 and MPEP 706.07, the “examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal.” “The invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied.”

[0014] In accordance with 37 CFR § 1.113 and MPEP 706.07(a), Applicant respectfully submits that finality would be premature for the next action because for the following reasons:

- The Applicant took no action (e.g., amendment or filing of an IDS with a fee) herein that necessitates that the Examiner perform a new search or introduce a new ground of rejection;

No Action necessitating new grounds for rejection or new search

[0015] Herein, the amendments to independent claims 1, 12, 20 and 26 are limited to substantially the same subject matter. Consequently, one or more claims presented herein have already been examined in the Office Action. Furthermore, Applicant explains herein why these already-examined claims differ from the cited art of record. Therefore, in accordance with 37 CFR § 1.113 and MPEP 706.07(a), finality for the next action would be premature.

[0016] Accordingly, Applicant respectfully requests that the next action—if not a Notice of Allowance—be Non-Final.

Formal Matters

Provisional Double-Patenting Rejections

[0017] Applicant has previously submitted a terminal disclaimer to overcome the provisional double-patenting rejection.

Substantive Matters

Claim Rejections under § 101

[0018] Claims 1-2, 7-13, 15-19, 20-25 are rejected under 35 U.S.C. § 101. In light of the amendments presented herein, Applicant respectfully submits that these claims now comply with the patentability requirements of § 101 and that the § 101 rejections should be withdrawn. The Applicant further asserts that these claims are allowable. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0019] If the Examiner maintains the rejection of these claims, then the Applicant requests additional guidance as to what is necessary to overcome the rejection.

Claim Rejections under § 102

[0020] Claims 1-37 are rejected under 35 U.S.C. § 102(e). In light of the decisions/agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections. Accordingly, Applicant respectfully requests that the case be passed along to issuance.

Anticipation Rejections

[0021] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.¹

Based upon Muhelstein

[0022] The Examiner rejects claims 1-37 under 35 U.S.C. § 102(e) as being anticipated by Muhelstein. Applicant respectfully traverses the rejections of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claims 1, 12, 20

[0023] The Examiner indicates the following with regard to claim 1 and by reference to claim 1 for claims 12 and 20:

Regarding claim 1, Muhlestein discloses a system and method for accessing management functionality through a command line utility. Muhlestein discloses a set of commands for the WMI command utility configured by an underlying object model command schema. The object-oriented command schema defines the command line utility comprising a plurality of commands which meets the limitation **a pipeline of a plurality of object-based commands**. See pages 1 and 2, paragraphs [0011]-[0013].

¹ "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

[0024] Muhlstein does discuss various technologies in the field such as WMI (Windows Management Interface), Objects, CLI (Command Line Interface) API (Application Programming Interface) while describing his invention to create an abstraction layer for complicated WMI scripts. But, as discussed in the interview, there is no mention of a pipeline or its equivalent in Muhlstein.

[0025] Consequently, Muhlestein does not disclose all of the claimed elements and features of these claims. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 2-11, 13-19, 21-25

[0026] These claims ultimately depend upon independent claims 1, 12, or 20. As discussed above, claims 1, 12, and 20 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 26

[0027] Claim 26 does not utilize the term pipeline as do the other independent claims but a pipeline is still inferred. Claim 26 is herein amended to clarify this inference. Multiple commands on the same command line that interact are by definition a pipeline. Muhlestein does not disclose a pipeline.

[0028] Consequently, as similarly discussed in claims 1, 12, and 20 Muhlestein does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 27-37

[0029] These claims ultimately depend upon independent claims 26 As discussed above, claim 26 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

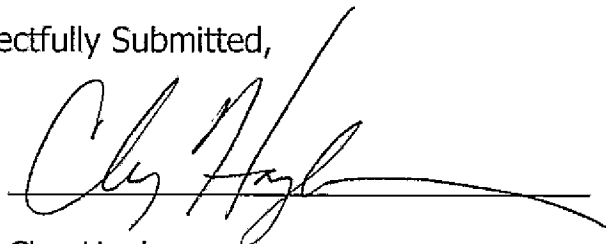
Conclusion

[0030] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Dated: 04/07/2008

Respectfully Submitted,

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